

# Montana Planning News

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# MONTANA PLANNING NEWS

October  
1978

Department of Community Affairs Planning Division

# Congress Passes Flexible Grazing Fee

A bill that would base federal grazing fees on a flexible formula has passed the U.S. Congress and now awaits President Carter's signature, reports Senator Paul Hatfield's Helena office.

The bill, the Public Rangeland Improvement Act of 1978, would base grazing fees on the cost of production, the price of beef and forage values. The fee formula, if approved, would be used on a seven-year trial basis.

The Carter administration has opposed the bill, leading to speculation about a possible presidential veto. Carter prefers to make grazing fees for federal lands comparable to fees charged for private lands. But strong support for the flexible scale has come from western senators and livestock groups.

The act would also authorize a \$360-million, 20-year rangeland improvement program for the federal grazing lands. Eighty percent of this amount would be earmarked for on-the-ground improvements such as water development, increased vegetation, soil conservation and wildlife management.

Mons Teigen, Executive Vice President of the Montana Stockgrowers Association, supported the bill: "The grazing fee formula contained in this bill will provide some additional stability for public land users in the west by building confidence that the formula cannot be manipulated according to the whims of the administration or agency involved."

## Goodbye MPN... Hello MCN

This October issue of the Montana Planning News is a trifle tardy, because we're in the process of making some changes to improve the newsletter. In fact, this is the last issue of MPN you'll find in your mailbox. Starting in November, MPN will become MCN: the Montana Community News.

Along with a change in the title, you'll see a change in the coverage. The MCN, besides keeping you up-to-date on planning news in Montana, will keep you informed about interesting activities and news from all the divisions and units of the Department of Community Affairs.

Those units are the Aeronautics Division, the Coal Board, the Highway Safety Division, the Human Resources Division, the Indian Affairs Unit, the Local Government Services Division, the Research and Information Systems Division and, of course, the Planning Division.

We think this will be a useful and inexpensive way to let you know about all the services DCA offers. As always, we welcome your comments, questions, letters-to-the-editor, criticisms and article suggestions. Just call 449-3757 or write: Montana Community News, Department of Community Affairs, Capitol Station, Helena, MT 59601.

# JOBS OPEN

There are variety of planning jobs open in Montana this month.

Mineral County is looking for a planning director. It requires a bachelor's degree and a minimum of two years' experience. Send a resume and three letters of recommendation to the Director, City-County Planning Board, Mineral County Courthouse Room 6, P.O. Box 281, Superior, MT 59872.

The Billings City-County Planning Board has an opening for a Planner I to work on statistical data gathering, capitol improvements, special areas planning and comprehensive planning. Contact Joanne Haas, P. O. Box 1178, Billings, MT 59103/248-7511 Ext. 236.

McCone County needs a person with a degree in planning or a related field plus two years of experience. Contact Charlie Ferris, McCone County Planning Board, Box 47, Circle, MT 59215 / (Home) 485-2474 or (Work) 485-3334.

The Lewis and Clark Planning Organization has two planning positions open. It needs an associate planner to work on long-range planning and a principal planner to work on current planning. Contact Dennis Vogt, Lewis and Clark Areawide Planning Organization, 38 South Last Chance Gulch, Helena, MT 59601/442-5000.

## Government Guide Available

The "Montana Manual of State and Local Government 1978" is now available from the Department of Community Affairs.

Prepared by the staff of the Montana Local Government Institute, the Manual is an excellent source of information about local, state, tribal and federal government. It includes descriptions of activities for many of the governmental bodies listed, along with addresses and phone numbers for each.

You can receive a copy by sending a check for \$3.00, payable to the Department of Community Affairs, to David Wanzenreid, DCA, Capitol Station, Helena, MT 59601.

## More Land Use Maps

Four more county land use maps are available from the DCA Planning Division. They are Deer Lodge, Mineral, Silver Bow and Teton; the three counties released previously are Cascade, Hill and Lewis and Clark.

The full-color maps give information on ten land use categories for each county. Maps for the rest of Montana's counties are scheduled for release by early 1979.

The maps that have been released are available for free public distribution at County Clerk and Recorders, local planning boards and conservation district supervisor offices.

You can also get maps for a small charge from the DCA Planning Division, Capitol Station, Helena, MT 59601. Enclose a check for \$1.00, payable to Dept. of Community Affairs, to cover postage and handling for each county map ordered.

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# The Milwaukee Road: How Much Time Left To Run?

The federal trustee appointed for the bankrupt Milwaukee Road sees little hope for the railroad's operations in Montana. "I know how proud you here in Montana are of your part in the Milwaukee Road," said trustee Stanley Hillman. "You have reason to be proud. But we cannot allow pride to get in the way of practicality."

Hillman outlined the problems the Milwaukee Road was facing during a public meeting on October 12th in Helena. He said the line was \$400 million in debt and would probably lose \$50 million this year. Maintenance and improvements to the railroad's existing track in the west are estimated to cost \$132 million.

So Hillman has begun proceedings to sell or abandon most of the Milwaukee's tracks west of Minneapolis-St. Paul, Minnesota. Earlier, the railroad had received permission to abandon its tracks in and around Bozeman.

In Montana, three branch lines are scheduled for "immediate abandonment." Those are Fairfield to Agawam, 31.3 miles; Winifred to Lewistown, 43.4 miles; and Ringling to Dorsey, 3.5 miles. Under Interstate Commerce Commission regulations, those lines must remain in service to the end of this year then can be

abandoned, if approved by the ICC, within three years.

A fourth branch line, 34 miles from Fairfield to Great Falls, is listed as "under study for future abandonment attempts."

The Milwaukee is reportedly also negotiating with the Union Pacific Railroad to sell its lines west of Butte.

Legislation to aid the Milwaukee in repairing its tracks in the west was introduced by Montana's Congressional Delegation, but failed to clear either the Senate or the House.

Many Montanans have disputed Hillman's claim that "... Milwaukee's essentiality to Montana industry is not great." For example, Milwaukee presently employs about 800 Montanans, and many towns and counties would face serious losses in tax revenue if the Milwaukee property was abandoned and not resold. Towns such as Ringling and Winifred depend on the railroad to transport beef and grain to market. Harlowton, Three Forks and other towns depend on the Milwaukee for employment, and in Ingomar, the town's water supply is hauled in by rail.

*(Continued on Page 6)*

## Amtrak Serves Social Needs, Says Federal Rail Office

Last month, MPN reported that U.S. Secretary of Transportation Brock Adams was proposing to cut one of Montana's two Amtrak passenger routes. This month, a different federal agency says Adams should take a second look at his recommendation.

The main problem, says the Rail Services Planning Office (RSPO) of the Interstate Commerce Commission, is that Adams evaluates Amtrak as a business operation. But, according to RSPO, Amtrak also provides many valuable and unique social services that could be lost if Amtrak routes are cut. So RSPO suggests taking those factors into account before deciding on trimming the Amtrak system.

The RSPO recommendation came after the office held hearings in Montana and other states slated for cutbacks under Adams' DOT proposal. Public comment in Montana was nearly unanimous against the elimination of either the northern Empire Builder route or the southern North Coast Hiawatha route, with many of those testifying giving examples of the needs being met by Amtrak.

Although the RSPO recommendation was encouraging to Montanans, Secretary Adams must still submit his own recommendations to Congress by the end of this year. Congress must then decide the fate of Amtrak in Montana.

# EPA Issues Farmland Policy

The U.S. Environmental Protection Agency (EPA) doesn't want to cause the loss of any agricultural land in the future.

The Federal government, says EPA Administrator Douglas Costle, bears some responsibility for farmland losses, ". . . since Federal grants for the construction of highways, sewage treatment works and other projects can unintentionally stimulate the conversion of farmland to housing tracts or shopping centers."

So the EPA has drawn up an administrative policy to ensure that it considers the impacts on farmland of all decisions the agency makes, and those decisions it reviews for other agencies.

The policy requires the agency to:

- "Support state and local farmland protection efforts and strengthen technical assistance to state and local governments for the protection of agricultural land;
- "Consider in agency enforcement actions the local

significance and economic value of farmlands to communities;

- "Encourage regional water quality management and solid waste disposal plans that safeguard fertile soils;

- "Identify additional areas for research on the environmental roles of farmlands;

- "Increase public awareness of the environmental value of agricultural land.

The EPA policy was spurred on by studies by the U.S. Department of Agriculture that reported a loss of 31 million acres of farmland over the past ten years. The Ag Department concluded that while the U.S. still had a large surplus of acres capable of being cultivated, much of the most fertile land was being irretrievably lost.

For a copy of the EPA policy and background material, contact the EPA Press Office, Room 329, West Tower (A-107), 401 M St., S.W., Washington, D.C. 20460/(202) 755-0344.

## PUBLICATIONS

**The Fiscal Impact Handbook**, Robert W. Burchell and David Listokin, available from the Center for Urban Policy Research, Rutgers University, P. O. Box 38, New Brunswick, NJ 08903, 452 pp., \$20.

*". . . detailed instructions for budget administrators, planners, school district administrators and developers to estimate the direct public costs associated with private development . . . Explicitly designed to be used and understood by local practitioners and elected officials."*

**Saving Farms and Farmlands: A Community Guide** (PAS Report No. 333); American Society of Planners, 1313 E. 60th St., Chicago, IL 60637; \$6.

*And interesting description of a variety of local programs for preserving agricultural land, along with suggestions for useful planning and zoning innovations.*

**"Nature to Be Commanded . . ."** Earth Science Maps Applied to Land and Water Management, Geological Survey Professional Paper 950, available from the Supt. of Documents, U.S. Government Printing Office, Washington, D.C. 20402; Stock No. 024-001-03011-0; 97 pp. \$6.25.

*This colorful book gives graphic examples of the value of earth-science information in land and water management by showing how maps have been used in making plans and decisions in a variety of settings.*

# REPRINTS

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## From The Great Falls Tribune

It's obvious that the interim subcommittee on subdivision laws learned a good deal about subdivision activity in Montana. Last week, the subcommittee approved draft legislation that would tighten up state subdivision law.

Evidence of widespread abuse of current subdivision law is no longer news in Montana. A 1976 study showed that only a small percentage of land parcels actually undergo subdivision review in the state. The majority of parcels escape review through use and misuse of the law.

Since the last legislature met, the situation has not gotten any better. It may, however, should recommendations of the subcommittee become law next year. Here are the most important proposed changes:

—Currently, parcels of land larger than 20 acres do not have to undergo public review. The subcommittee proposed to eliminate this 20-acre provision.

—Changes would be made regarding exemptions to the law. Occasional sale, which allows a landowner to sell one parcel of land a year without review, would be eliminated entirely. Family conveyance, which allows a landowner to transfer land to members of the immediate family, would be limited to one per family member per lifetime. A landowner could convey more land parcels to family members, but the transaction would have to undergo review.

—While all divisions of land, with few exceptions, would be reviewed, the subcommittee proposed streamlined procedures for several kinds of subdivisions, including those with parcels greater than 40 acres and minor subdivisions of five or fewer lots.

—The subcommittee recommended that in a situation where a number of minor subdivisions are proposed for the same area, the local governing body can require an environmental assessment and a hearing if it thinks the cumulative effect of the developments would be significant.

—Public interest criteria for local government review of subdivisions would be changed. Some current criteria would be made more specific. Deleted would be criteria that require judging a proposal by the expressed public opinion on it, by the expected effects on agriculture and on the basis of need.

No doubt, each item proposed will receive close attention. Some may need changes; some obviously don't. Tightening up the use of exemptions is an essential move if subdivision abuse is to be controlled. The legislation resulting from the interim subcommittee's work will be hot stuff next year. Watch for it.

## From The HUD Newsletter

Many persons have asked why there has been such a tremendous demand for housing in the past 2 or 3 years . . . with the accompanying record escalation in prices. Still another question has been asked . . . "Should I wait to buy until prices stabilize, or maybe even drop?" The answers to these questions are tied to the same phenomenon. The baby boom of 1947-1957 has resulted in the greatest home-buying surge in history . . . as these babies reach the age when they become home-seekers. And it isn't likely there will be any abatement of this demand in the near future. The highest birth-rate in American history occurred in 1957 . . . just 21 years ago . . . and it is not until the 1957 babies become 25 to 30 they will become active homebuyers.

This same baby boom caused the tremendous increase in the need for school facilities in the '50s and '60s. First . . . in the elementary schools, and then in the high schools. Now they want homes . . . and will continue to want them for some years. Another important factor is the change in buying habits of young Americans. They are buying homes at an earlier age than ever before . . . and are buying them whether they have families or not . . . and in many cases . . . even though they are not married. *(Continued on Page 6)*

# Joint Effort On Coal Transport Impact Starts

The federal government will work with 28 coal states to look at the impacts coal development is having on roads and railroads—and to find ways to solve the problems.

Montana Governor Tom Judge reported that development after a meeting with U.S. Transportation Secretary Brock Adams in Washington, D.C..

Judge, chairman of the National Governors Association's Transportation Task Force, warned that it will still "... be a major battle to convince the Office of Management and Budget and the Congress of the need for substantial funds for road repairs and railroad overpasses." But he said Adams has agreed to work with the states to develop legislation addressing the impact of energy development on transportation systems.

Montana's needs for mitigating impacts of coal development on highways total about \$83 million, estimates Judge.

## Milwaukee (cont.)

Montana Power Company President Joseph McElwain said the abandonment move would leave many areas in Montana "... high and dry without acceptable transportation alternatives for many of Montana's principal products." He noted the increased cost for hauling Montana's coal by the remaining rail system, and warned of the likelihood of increased pressure for coal slurry pipelines.

One proposal to stave off the collapse of the Milwaukee came from some employees, who want to purchase and operate the railroad as an employee-owned business. The 12th largest railroad in the U.S., the Chicago North Western Railway, has been operating since 1972 as an employee-owned business.

But Hillman was skeptical about that idea: "As a businessman, . . . I must express serious doubts that any group of employees can develop the money necessary to back up the idea of employee ownership."

## HUD (continued)

Analysts are saying that homeowners . . . who represented 64 percent of Americans in 1970 . . . have now exceeded the two-thirds rate . . . and will reach 70 percent in 5 years. So . . . it would appear that the demand for housing is not likely to go down, and that housing prices are going to stay up. The economics of the situation are that is spite of the inflation in home prices . . . people can afford to buy. Since 1960 . . . the number of wives working has increased from 30 percent to 44 percent . . . and is constantly rising. With more than one income . . . more families can afford to buy . . . and at higher prices. Actual housing costs . . . land, construction, financing, and other costs, continue to rise. Demand remains high. These factors do not indicate any drop in home prices in the foreseeable future, according to the experts.

## Grants For Septic Systems

The Federal government now has grants available for small scale septic systems designed to reduce nonpoint water pollution in rural areas.

The 85% Federal cost-share grants, available under Section 14 of the 1977 Clean Water Act, may be applied for by communities or by as few as two homes. However, all grants must be channeled through a governmental body, such as a county or city commission or sewer district.

The funds must be used to correct problems in septic systems installed prior to December 27, 1977. The program requires extensive facility planning and design work.

For more information, contact Joe Steiner, Department of Health and Environmental Sciences, Water Quality Bureau, Capitol Station, Helena, MT 59601/449-2407.

# County Sues Ray-Al Developers

Yellowstone County is going to court to stop three corporations and 24 individuals from developing a subdivision that the County Commissioners turned down two years ago.

Yellowstone County Commissioners denied the Ray-Al Subdivision because of the lack of need for the lots, the negative public comment, the adverse impacts on agriculture, the expense of providing services and the potential dangers to public safety and health.

But, charges the county, developers have used a variety of exemptions to sell, give away, exchange and split parcels to create a subdivision despite the denial. And the county claims the developers have misrepresented some of the lots thus created as part of an approved county subdivision.

In one series of transactions, for example, developers amended a certificate of survey to create four one-acre lots. They used a family conveyance to exempt three of the splits from local review; the fourth lot was exempted as a remainder.

However, the certificate listed two apparently unrelated men as co-owners of the property. DCA Land Use Attorney Richard Weddle, commenting on the split,

noted that any recipient of a family conveyance from co-owners must be of the immediate family of both. The state attorney general has held that immediate family means "the spouse of the grantor and the children of the grantor by blood or adoption." Weddle noted that unless one of the two men was the father-in-law of the other, the family conveyance exemption could not be invoked.

While the co-owners used the family conveyance to exempt the split from local review under the Subdivision and Platting Act, they claimed on the same one-acre tracts an agricultural exemption from Health Department review under the Sanitation in Subdivision Act. Four months after the certificate had been filed, the developers asked the Health Department to remove sanitary restrictions on the lots.

Yellowstone County has filed suit in district court to stop any further transfer of the lots, and to return the land in the development to agricultural use. In addition, the county is requesting \$10,000 in punitive damages for each transfer of lots that occurred in violation of land use or health laws or regulations.

## State's 1st Grazing Advisory Board

Seven ranchers in the Lewistown grazing district have been elected to Montana's first Grazing Advisory Board, the Bureau of Land Management announced recently.

The board will advise the BLM's Lewistown District Manager on the development of allotment management plans and the use of range-betterment funds in respect to commercial grazing of livestock.

The Federal Land Policy and Management Act of 1976 authorized the formation of grazing advisory boards in districts where a simple majority of livestock operators using public lands petition the BLM for the formation of such a board.

Advisory board members are Jerry Tonne, Geraldine; Robert McColly, Hinsdale; Clarence Pile, Greycliff; Ross Robinson, Saco; Willard Lybeck, Zurich; Gene Etchart, Glasgow and Bill Wegner, Worden. Each man will represent a BLM resource area within the Lewistown District with the exception of Etchart and Wegner who will hold "member-at-large" positions.

# Feds Exempt From State Mining Regs

Montana cannot use the state Open Cut Mining Act to regulate federal agencies engaged in open cut mining in Montana, whether or not that mining is on federal land. However, the state probably can regulate private contractors mining on federal land.

Those are the conclusions in an opinion Attorney General Mike Greely recently issued to State Lands Commissioner Leo Berry, Jr..

Greely said the federal supremacy clause of the U.S. Constitution seems to rule out the state's directly regulating the federal operations, although he noted a tendency for courts to order federal agencies to comply with "substantive" regulations of states.

But where private contractors are mining on federal land, Greely says Congress has clearly favored giving the state control of environmental quality regulation. Greely noted that that principle would hold unless a federal law set reclamation standards looser than those in the state statute.

The Montana Open Cut Mining Act regulates the conservation and reclamation of land subject to bentonite, clay, scoria, phosphate rock, sand or gravel mining.

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